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# THE SITUATION CONCERNING WESTERN SAHARA

## Report by the Secretary-General

## INTRODUCTION

1. In his letter to me dated 31 August 1992 (S/24504) the President of the Security Council, commenting on my latest report on Western Sahara dated 20 August 1992 (S/24464), confirmed the Council's agreement to maintain the existing deployment and staffing of the United Nations Mission for the Referendum in Western Sahara (MINURSO), while expecting a further progress report by the end of September 1992. However, as intimated to the President in my letter of 2 October 1992 (S/24644), I deemed it appropriate, to defer my next report until the second half of November 1992 in the expectation that I would then be able to give a full account of the outcome of various consultations, including a meeting of tribal chiefs from Western Sahara. Subsequently, in a letter dated 16 November 1992, I informed the President of my intention to postpone further the submission of my report until the second week of December 1992, since the meeting of tribal chiefs could not be organized before the end of November 1992. Lastly, as I advised the President in my letter of 22 December 1992 (S/25008), I felt it necessary further to postpone my report until the second half of January 1993.

2. The present report is divided into five sections. Section I describes the military aspects of MINURSO. Section II is devoted to other aspects, including major activities and developments since my last report to the Council dated 22 August 1992. Section III deals with events and circumstances in the mission area which have a bearing on MINURSO's role and activities, without pertaining directly to its current mandate. Section IV dwells on the financial aspects of the operation. Finally, section V embodies my own conclusions and recommendations.

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## I. MILITARY ASPECTS

3. As of 20 January 1993, the military component of MINURSO totalled 328 personnel including, 228 military observers and 100 support personnel.

(a) United Nations military observers and headquarters personnel:

| | |
|---|---|
| Argentina | 7 |
| Australia | 2 |
| Austria | 1 |
| Bangladesh | 1 |
| Belgium | 1 |
| Canada | 16 |
| China | 20 |
| Egypt | 9 |
| France | 30 |
| Ghana | 1 |
| Greece | 1 |
| Guinea | 1 |
| Honduras | 14 |
| Ireland | 6 |
| Italy | 6 |
| Kenya | 10 |
| Malaysia | 1 |
| Nigeria | 1 |
| Pakistan | 1 |
| Poland | 2 |
| Russian Federation | 30 |
| Switzerland | 1 |
| Tunisia | 8 |
| United Kingdom of Great Britain and Northern Ireland | 15 |
| United States of America | 28 |
| Venezuela | 15 |
| Subtotal (a) | 228 |
| (b) Signals Unit: Australia | 43 |
| (c) Movement control: Canada | 16 |
| (d) Medical Unit: Switzerland | 41 |
| Total | 328 |

4. In addition, 103 civilian staff members, 69 of whom are internationally recruited and 34 locally recruited, were assigned to MINURSO in support of its military mandate. This figure does not include pilots and other crew members of two fixed-wing aircraft and five helicopters provided by the companies from which the aircraft have been leased.

5. As reported in my letter dated 16 September 1992 to the President of the Security Council (S/24579), the tour of duty of Brigadier-General Luis Block Urban from Peru, who had served as Acting Force Commander of MINURSO since 24 April 1992, came to an end on 30 September 1992. Following the usual consultations, I appointed Brigadier-General André Van Baelen of Belgium to the post of Acting Force Commander, with effect from 1 October 1992.

6. Pending the fulfilment of the conditions necessary for the commencement of the transitional period in accordance with the timetable and plan of action set out in S/22464 and Corr.1, MINURSO's military mandate remains restricted to monitoring and verifying the cease-fire in effect since 6 September 1991. I am pleased to report that there were no breaches of the cease-fire resulting in casualties on either side and that violations were without exception of a non-violent nature. Still I have noted with concern a reversal in the downward trend in the number of violations discerned during the period 29 May to 20 August 1992 when only six violations were reported by the MINURSO Force Commander a.i. By contrast, no less than 50 violations were reported in the period 20 August to 20 January 1993, with 46 of them attributed to Morocco and 4 to the Frente POLISARIO. Of the former violations, 22 related to overflights, 13 to improvements of defensive works and 11 to unauthorized troop movements. On the Frente POLISARIO side, all four violations involved troop movements without prior notification and permission. Additionally, the POLISARIO filed complaints alleging 24 overflights over and above the 22 which could be confirmed by MINURSO's own observations.

7. Even though there have been no explosions affecting MINURSO personnel since my last report, minefields continued to pose grave danger to MINURSO patrols in the performance of their duties. As stressed in earlier reports, it is essential that both parties make available, without delay, all existing charts and other information indicating the exact location of mines. Meanwhile, the observers continue to abide by existing instructions not to stray from well-beaten and familiar routes. But inevitably, such restrictions detract from the ability of MINURSO to carry out its mandate in the most efficient manner possible.

8. The Swiss Medical Unit continued to provide efficient medical services to MINURSO personnel. Because of the continuing uncertainty about MINURSO's full deployment, the Swiss authorities suggested, and I agreed, to a reduction in the strength of the Medical Unit, which dropped from 59 to 41 by 20 January 1993. As part of this reduction, the clinic in Dakhla has been dismantled and as of 6 December the clinic in Smara was reduced to a forward medical post with a capacity limited to emergencies and medical evacuations.

9. I wish to express my appreciation to the Governments contributing military observers to MINURSO. Furthermore, I take this opportunity to express my warm thanks to Brigadier-General Block for the diligence with which he led MINURSO from 24 April until 30 September 1992. I also wish to pay a tribute to his successor, Brigadier-General Van Baelen, and to all the men and women, both military and civilian, under his command. They have performed

with efficiency and devotion the tasks assigned to them by the Security Council.

## II. OTHER ASPECTS

10. At the invitation of the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity, President Abdou Diouf of Senegal, my Special Representative, visited Dakar from 9 to 11 September 1992 in order to brief the Chairman on the current status of the settlement plan co-sponsored by the OAU. While expressing concern at the protracted impasse in the settlement process, President Diouf gave assurances of continuing support of the OAU for ongoing efforts to overcome obstacles as well as for any new initiatives for reactivating the settlement plan.

11. My Special Representative then visited the mission area from 10 to 15 October 1992. In Rabat he was received by King Hassan II. Subsequently, he met the Secretary-General of the Frente POLISARIO, Mr. Mohammed Abdelaziz, in Tindouf. Before returning to New York, he met in Algiers for the first time with President Ali Kafi and separately, with the Prime Minister, Mr. Belaid Abdeslam. On his return to New York, my Special Representative briefed the Permanent Representative of Mauritania to the United Nations on the outcome of his mission.

12. As I indicated in my letter of 2 October 1992 to the President of the Security Council (S/24644), the talks between my Special Representative and each of the parties concerning the interpretation of the criteria for eligibility to vote annexed to my predecessor's report of 19 December 1991 (S/23299) began at United Nations Headquarters on 25 August 1992 and continued until 25 September 1992. The annex to the present report provides an account of the results of these talks, which dealt with the interpretation of the criteria and other relevant instructions set out in the annex to the said report, concerning, in particular, evidence in support of individual applications for participation in the referendum.

13. In this context, it is worth recalling at the outset the basic positions of Morocco and the Frente POLISARIO regarding the provisions of the settlement plan (set out in document S/21360 and elaborated further in document S/22464) which relate to the establishment of the electorate.

14. In paragraph 61 of document S/21360, the plan for the implementation of the proposals for the settlement of the question of Western Sahara stipulates that the Identification Commission will implement the agreed position of the parties that all Western Saharans counted in the 1974 census undertaken by the Spanish authorities and aged 18 years or over will have the right to vote, whether currently present in the Territory or outside as refugees or for other reasons. The detailed report on the implementation of the settlement proposals (S/22464) stipulates, in paragraph 20, that the Identification Commission's mandate to update the 1974 census will include (a) removing from the lists the names of persons who have since died and (b) considering

applications from persons who claim the right to participate in the referendum on the grounds that they are Western Saharans and were omitted from the 1974 census.

15. In this connection, Morocco maintains that all persons having Saharan status should have the right to participate in the referendum and that, accordingly, Saharans who for various reasons were omitted by the Spanish authorities in 1974 should be considered on the same basis as those who were counted; hence, Morocco regards the list of persons counted in 1974 as a point of reference for the establishment of the electorate. For its part, the Frente POLISARIO maintains that, in the initial agreement, the two parties agreed that the 1974 list would be the sole basis of the electorate and that, accordingly, the Saharans counted in 1974 should constitute the vast majority of persons authorized to participate in the referendum, while Saharans omitted from the census should constitute an exception to that group. The two parties thus have radically opposing points of view concerning the relevant provisions of the settlement plan, with one attaching primary importance to the list of persons counted in 1974 and the other considering that its importance is relative.

16. It should also be recalled that my predecessor, in setting out the instructions relating to the tasks of the Identification Commission, including the criteria for eligibility to vote, as annexed to the report of 19 December 1991 (S/23299), believed that they constituted a just and fair basis for the monitoring of the referendum. For the reasons outlined in the preceding paragraph, Morocco, while considering these criteria to be unduly restrictive, nevertheless accepted them. The Frente POLISARIO, however, considered that these criteria would unduly expand the electorate beyond the 1974 list; since it viewed the 1974 census as a key provision of the settlement plan, to which the two parties had agreed and which could not be changed without their consent, the Frente POLISARIO rejected these criteria on the ground that they were incompatible with the relevant provisions of the plan.

17. The parties' opposing points of view concerning the basic question of the establishment of the electorate largely accounts for their differences, as made clear in their recent talks with the Special Representative, with regard to both the interpretation of the criteria and the equally important question of evidence in support of applications for participation in the referendum. In this connection, the Frente POLISARIO emphasized the special importance of written evidence emanating from the Territory, in other words, authentic documents issued by the Spanish authorities in the Territory, while Morocco emphasized the equal importance, in a nomadic and traditional society, of oral testimonies and official documents, regardless of their source.

18. Since the outcome of these talks was not conclusive, I agreed, as mentioned in my letter to the President of the Security Council dated 2 October 1992 (S/24644), that my Special Representative should undertake further consultations with a view to clarifying certain unresolved questions. We also informed the members of the Security Council of our intention to try

to determine with the parties whether a meeting of tribal chiefs such as that organised by the United Nations at Geneva in June 1990 could contribute to the resolution of the problems impeding the implementation of the settlement plan.

19. Further to the letter from the President of the Security Council dated 8 October 1992 (S/24645) welcoming such an intention, my Special Representative decided, in consultation with the parties, to invite 38 Western Saharan tribal chiefs to a consultative meeting on 30 November and 1 December 1992 at the Palais des Nations in Geneva. The Special Representative had sent both parties a letter to that effect on 11 November 1992. The participants, of whom 19 had been designated by the Government of Morocco and 19 by the Frente POLISARIO, were to advise the Special Representative on questions relating to the means of identifying persons authorised to participate in the referendum to be organized by the United Nations in Western Sahara.

20. Regrettably, because of differences relating to the powers of some participants designated by the Moroccan party, this consultative meeting had to be cancelled, despite the compromise proposals put forward by the Special Representative to the delegations of both parties at Geneva.

21. On the understanding that a separate meeting could not take the place of the advisory meeting which could not be held, the Special Representative received, at the request of the Moroccan party, the delegation of notables designated by Morocco, who presented him with a document to apprise him of their point of view. The delegation designated by the Frente POLISARIO did not request a similar meeting.

## III. THE SITUATION IN MISSION AREA

22. As I advised the Council in my report of 20 August 1992 (S/24464, paras. 10-12), the Government of Morocco had announced its intention to hold a referendum on constitutional reform as well as municipal and legislative elections within the coming months. For reasons explained to my Special Representative during his visit to Rabat in early August and confirmed in a letter from Morocco's Minister for Foreign Affairs to me dated 21 August 1992 (S/24484, annex) the Government of Morocco was reluctant to consider postponing these plebiscites. The Foreign Minister's letter states, inter alia, that the holding of the referendum and the national elections could not in any way be linked to the referendum to be held under the United Nations settlement plan, "because of the radically different nature and objectives of the two consultations".

23. The referendum on constitutional reform which was held on 4 September 1992 resulted in the adoption of a series of proposed amendments to the Moroccan Constitution, one of which introduces the "Region" as a new administrative subdivision. In a public address on 8 September 1992, King Hassan II announced that Western Sahara would form the first such Region and enjoy priority in terms of development.

24. On 16 October 1992, municipal elections were held in Morocco and in the Territory of Western Sahara. Various incidents involving demonstrators were reported in the Territory of Western Sahara both before and after these elections. In two instances, on 8 and 9 October respectively, a group of youths entered the MINURSO sub-headquarters at Smara in connection with disturbances there. In both cases, the youths left the compound of their own volition accompanied by MINURSO personnel after appropriate assurances had been sought and obtained from local authorities.

25. Subsequently, in various communications addressed to me, my Special Representative and the Force Commander of MINURSO, the Frente POLISARIO reported grave incidents allegedly involving violence and arrests throughout the Territory. While confirming the occurrence of public demonstrations in the Territory related to the electorial campaign, Morocco denied these allegations. It is pertinent to recall that while MINURSO's current military mandate is strictly limited to the monitoring and verification of the cease-fire, MINURSO, as a United Nations mission, could not be a silent witness to conduct that might infringe the human rights of the civilian population. Hence MINURSO patrols were alerted to possible unrest. Their reports did not corroborate the allegations made by the Frente POLISARIO.

26. In letters recently addressed to the United Nations High Commissioner for Refugees and myself, Morocco has strongly urged investigation into allegedly serious aspects of the situation prevailing in the camps at Tindouf, Algeria. I shall inform the Council, as appropriate, should there be any findings that bear on MINURSO'S mandate and might warrant the Council's attention.

## IV. FINANCIAL ASPECTS

27. The General Assembly, by its resolution 45/266 of 17 May 1991, appropriated an amount of $143 million gross ($140 million net) for the operation of MINURSO. As at 30 November 1992, there was a projected balance of $70.8 million gross ($70 million net) remaining from this appropriation. Should the Security Council decide to extend MINURSO, assuming continuation of its existing functions, appropriate financial commitments will be sought from the General Assembly or through the Advisory Committee on Administrative and Budgetary Questions. As at 30 November 1992 unpaid assessed contributions to the MINURSO special account amounted to approximately $21 million.

## V. OBSERVATIONS

28. The settlement plan for Western Sahara contained in my predecessor's report to the Security Council of 18 June 1990 (S/21360) and amplified and complemented with a detailed timetable in his further report of 19 April 1991 (S/22464 and Corr.1) is based on proposals to which the parties had freely agreed in August 1988. Moreover, both parties were extensively consulted on all major aspects of the aforementioned reports before they were issued and subsequently approved by the Security Council. The resultant plan was

designed to serve as a definite and agreed framework for the entire settlement process, starting with a cease-fire and culminating in a referendum, without the need for negotiating any further agreements for elaborating the details of the plan. It soon became evident, however, that notwithstanding the prior acceptance of the general provisions of the settlement plan, there were important substantial disagreements between the parties regarding fundamental issues. As underlined in paragraph 55 of my predecessor's report of 19 April 1991 amplifying the settlement plan, the full cooperation of both parties is an essential condition for the holding of the referendum. Faced with this situation, my predecessor and senior members of his staff worked closely with representatives of both parties in the final months of 1991 in an effort to arrive at a workable compromise. It was the consummation of this painstaking endeavour that was reflected in the annex to the Secretary-General's report of 19 December 1991.

29. In the intervening period, in spite of intensive efforts exerted by me and my Special Representative, it has unfortunately not been possible to resolve the dilemma that impinges on the very core of the settlement plan. These efforts have included my Special Representative's talks with the parties on safeguards and guarantees in June and July of last year, the results of which were described in my report of 20 August 1992 (S/24464); a further round of talks concerning documentary and oral evidence in August and September 1992; and, lastly, an attempt to organize a meeting of tribal chiefs in Geneva at the end of November 1992.

30. The results of my Special Representative's talks with the parties concerning documentary and oral evidence and testimony to be used and accepted for the identification of voters are described in the annex to the present report. Understandably, the differences between the two parties on the issues involved mirror their respective positions on what ought to be the composition of the electoral body. One of the parties advocates liberal use of both documentary and oral evidence from different sources, whereas the other party insists on much more restrictive rules in this regard. It was with this specific end in view that I agreed with the proposal of holding a meeting of tribal chiefs at the end of November 1992 so that such a conclave might help in defining the elements of a compromise.

31. Whatever hopes for a compromise that might have existed were frustrated at the meeting of tribal chiefs in Geneva for the reason explained in paragraph 20 above. This set-back demonstrates starkly the futility of the efforts undertaken with vigour and resource by my Special Representative over the past eight months to seek a way out of the existing deadlock. It is indeed disappointing that the rules established in agreement with the parties for the selection of participants were not strictly respected by all concerned. But I find it even more regrettable that the parties failed to prove equal to the test of making an effort to reach a relatively straightforward compromise on the holding of a meeting, the main purpose of which went no farther than to provide me and my Special Representative with advice on the procedures for the identification of voters eligible to participate in the referendum.

32. The above review describes the developments that have taken place since my last report to the Security Council on 20 August 1992. Three broad options would now seem to be available:

(a) Continuation, and if possible, intensification of talks. It is my considered opinion, however, that the chances for success under this option are very slim;

(b) Immediate implementation of the settlement plan on the basis of the instructions for the review of applications for participation in the referendum appearing in the annex to my predecessor's report of 19 December 1991 (S/23299). This may mean that the implementation would have to proceed without the cooperation of one of the parties;

(c) A third option would be to adopt an alternative approach not based on the settlement plan.

33. In the light of the above considerations, I am requesting guidance from the Security Council on how best to proceed. Evidently, given the background as well as the critical stage which has been reached, this guidance should be given by way of a resolution of the Security Council.

34. Depending on the Council's decision, the role and the strength of MINURSO will have to be adjusted. Likewise, revised budget estimates will have to be drawn up and approved. I shall formulate the corresponding plan and estimates in the light of the Council's decision and seek the necessary approval.

## Annex

## INTERPRETATION BY THE PARTIES OF THE CRITERIA FOR ELIGIBILITY TO VOTE AND OTHER INSTRUCTIONS RELATING TO THE TASKS OF THE IDENTIFICATION COMMISSION

1. As the Secretary-General mentioned in his letter of 2 October 1992 to the President of the Security Council (S/24644), the Special Representative of the Secretary-General held a series of talks with each of the parties from 25 August to 25 September 1992 on the interpretation of the criteria for participation in the referendum to be organized by the United Nations in Western Sahara, in accordance with the plan for the implementation of the settlement proposals (set out in document S/21360 of 18 June 1990 and elaborated further in document S/22464 of 19 April 1991). Here follows an account of the outcome of those talks, during which the parties presented their respective interpretations of the criteria for eligibility to vote and other instructions relating to the work of the Identification Commission, annexed to the report of the Secretary-General of 19 December 1991 (S/23299).

### I. CRITERIA FOR ELIGIBILITY TO VOTE

2. The Frente POLISARIO continued to stress that, as stipulated in the settlement plan agreed by both parties, the persons listed in the 1974 census constitute the sole basis of the electorate and that the criteria set out in the annex to the report of 19 December 1991 were incompatible with this key provision of the plan. The Frente POLISARIO emphasized throughout the talks that its readiness to discuss the interpretation of the December 1991 criteria at the request of the Special Representative in no way implied acceptance thereof. Nevertheless, the Frente POLISARIO stated that it was prepared to accept the criteria as a whole on one condition: sole reliance, for purposes of verification, on the authentic documents issued by the Spanish Territorial authorities. Morocco, which considered those documents to be less than satisfactory but accepted the criteria set out in document S/23299, continued to insist on their immutability in order to prevent a reopening of the debate on that issue and thereby prevent any backward movement.

3. The criteria set out in the annex to document S/23299 can be regrouped into five criteria:

1. Persons whose names are included in the revised 1974 census list (para. 23);

2. Persons who were living in the Territory as members of a Saharan tribe at the time of the 1974 census but who could not be counted (para. 25);

3. Members of the immediate family of the first two groups (father, mother and children) (paras. 23 and 26);

4. Persons born of a Saharan father born in the Territory (para. 29);

5. Persons who are members of a Saharan tribe belonging to the Territory and who have resided in the Territory for six consecutive years or intermittently for 12 years prior to 1 December 1974 (paras. 30 and 31).

4. The talks dealt specifically with the interpretation of criteria 4 and 5, which present the Frente POLISARIO with the greatest problems in terms of applicability, compatibility and legality with regard to the relevant provisions of the settlement plan (S/21360 and S/22464).

## A. Criterion 4

5. Both parties agreed that, in implementing the provisions of paragraph 29 of the annex to the report contained in document S/23299, proof of the father's birth in the Territory is a sine qua non for eligibility. However, the convergence of views on criterion 4 is limited to this point.

6. For the Frente POLISARIO, criterion 4 constitutes a derogation from the provisions of paragraphs 24 and 25 of document S/21360 and is consequently unacceptable. The Frente POLISARIO remains open to any compromise proposals on this issue. Having nevertheless agreed to discuss with the Special Representative the interpretation of criterion 4 as worded, the Frente POLISARIO pointed out that the provisions of that criterion suffered from omissions and contradictions. Specifically, criterion 4 as interpreted by the Frente POLISARIO does not accord the right to vote to a father born in the Territory; in contrast, it lets persons who may be foreign to the Territory to participate in the referendum.

7. Morocco considers it logical that a father, conferring Saharan status on an individual, should automatically have the right to participate in the referendum. Accordingly, the limitation to a single generation applies solely to subsequent generations (that is, to an individual's children) and not to prior generations (i.e. to the individual's father).

## B. Criterion 5

8. The Frente POLISARIO insists that this criterion must take into account the dates on which the States bordering Western Sahara gained independence, dates which it considers to be points of reference required under the plan to mark the internationally recognized boundaries of the Territory. To be eligible to vote on the basis of criterion 5, then, a person who was outside the Territory at the time of the 1974 census, in Morocco, Mauritania or Algeria, would have to prove that he had resided for six consecutive years or

intermittently for 12 years in the Territory during the periods from 1958 to 1974, 1960 to 1974 or 1962 to 1974 respectively.

9. Noting the nomadic character of Saharan society and the displacement which occurred as a result of the colonial presence in the Territory, as well as the hostile reactions of Saharan residents to colonization, Morocco believes that length of residence should be calculated as of 1884, the inception of Spanish colonization of the Territory.

## II. SUPPORTING EVIDENCE

10. The instructions annexed to the report of 19 December 1991 call for two types of evidence which individuals must furnish in support of their application to participate in the referendum: "official documents, well known to the Saharans and used by them" and "oral testimonies [...], given under appropriate conditions" (para. 32).

### A. Official documents

11. Throughout the talks, the Frente POLISARIO held that the problems relating to evidence only complicated the problems relating to criteria other than the 1974 census. Any person omitted from that census and not indigenous to the Territory could in fact claim by fraudulent means that he was entitled to participate in the referendum. Basing itself on the principle that no one but the Saharan people may determine that people's future, the Frente POLISARIO insists that any proof submitted in support of an application can come only from the Territory. In the case of documents, this means only authentic documents issued by Spanish Territorial authorities, such as identity cards, residency permits, family record books and passports. The Frente POLISARIO considers that written evidence originating in the two parties to the conflict is politically motivated and thus cannot be impartial. Stressing that one's affiliation with Western Sahara can be proved only by documents from the Territory, the Frente POLISARIO maintains that documents from any other source, including Algeria, Mauritania and the former French Protectorate of Morocco, cannot be considered.

12. Morocco disputes the impartiality of the Spanish colonial authorities but considers acceptable in principle any authentic official documents regardless of their origin, provided that the Identification Commission can verify their authenticity and that the written evidence can be corroborated by oral testimony. Morocco has cited as examples of official documents: birth, death and marriage certificates, particularly to support applications to participate in the referendum based on criterion 4; royal dahira, chiefly to certify membership in certain tribal groups in the Territory; and certificates issued by an adl, to support applications to participate on the basis of any one of the eligibility criteria.

B. Oral testimony

13. For the Frente POLISARIO, oral testimony may be solicited (a) to certify an individual's tribal affiliation and (b) to provide physical identification of an individual (confirming that a person claiming to be X is actually X). Only sheikhs belonging to an individual's subfraction and included in the list of sheikhs drawn up by the Spanish Territorial authorities can give such testimony. These witnesses must swear on the Koran before the appointed cadi that they will tell the whole truth and nothing but the truth. Citing the natural limitations of memory over events that occurred in the early years of the century and the risk that psychological and economic pressure might be exerted on the sheikhs, the Frente POLISARIO is opposed to oral testimony in support of applications made on the basis of criteria 4 and 5. For the same reasons the Frente POLISARIO will not accept any substitution of oral testimony for written evidence.

14. Morocco, on the other hand, maintains that, in cases where an individual has no documents, testimony by sheikhs and other tribe members can take the place of written evidence if it is given according to Saharan tradition and customs. Morocco specified in this connection that oral testimony can be given by two udul or 22 witnesses; testimony can also be given in a form recognized by the tribe or certified by the cadi.

III. TRIBAL AFFILIATION

15. Paragraph 21 of the annex to the report of 19 December 1991 stipulates that, "for actual identification, it is the membership of a family group (subfraction of a tribe) existing within the Territory, which can be attested to by the sheikhs and notables of the family group, that should eventually prevail for eligibility to participate in the referendum".

16. Both parties agree that membership in a tribe does not in itself entitle an individual to participate in the referendum. The individual must in all cases meet one of the criteria for eligibility in order to vote in the referendum.

17. The Frente POLISARIO considers a subfraction to be established in the Territory if the majority of its members were counted in the 1974 census and believes that any individual omitted from the census list should be included in a subfraction that meets this condition. Morocco rejects this interpretation as arbitrary and inconsistent with historical and geographical facts.

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